

**The Commonwealth of Massachusetts**  
**Massachusetts Gaming Commission**

**Meeting Minutes**

**Date:** October 9, 2012

**Time:** 1:00 p.m.

**Place:** Division of Insurance  
1000 Washington Street  
1<sup>st</sup> Floor, Meeting Room 1-E  
Boston, Massachusetts

**Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** None

**Call to Order:**

Chairman Crosby opened the 30<sup>th</sup> public meeting.

**Approval of Minutes:**

See transcript page 2.

Chairman Crosby stated that the September 25, 2012 minutes are ready for approval.

*Motion made Commissioner McHugh to approve the minutes of September 25, 2012. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

**Project Work Plan:**

See transcript pages 3-43.

Consultant Status Report – Kristin Gooch, Project Manager for the gaming consultants, was present to provide an update to the Commission. She stated that the consultants attended the recent Global Gaming Exhibition in Las Vegas where they had an opportunity to assist the Commissioners in developing initial contacts with regulators in several gaming jurisdictions and facilitated introductions to several gaming industry leaders. The event also provided the opportunity for introduction to the gaming industry's new products and technology. Ms. Gooch went on to state that significant progress has been made on the strategic plan. The consultants are working hard to ensure that the timelines discussed with the Commissioners are reflected in the plan and are achievable. They expect to deliver the next draft at the end of the week or early next week. They have been reviewing public comments for the Phase 1 application forms and are continuing to move forward

with activities that are part of the next phase of consulting, including developing a work plan for evaluating completed applications, for facilitating the investigations phase, and preparing for Phase 2 regulations.

Commissioner Zuniga stated that he had been delegated the task of negotiating and completing a contract for the extension of the consultants' contract. This process is not completed but he will provide an update at the next Commission meeting.

Chairman Crosby stated that the Commission should consider two major issues that were discussed at the Global Gaming Exhibition. The first involves a movement to fix the Carcieri Supreme Court decision and to enable the land in trust process to proceed with fewer complications for tribes like the Mashpee Wampanoag. The second issue was online gaming. The State Treasurer's task force is working on this issue and the Commission may need to become more involved in that work. Commissioner Zuniga stated that his takeaway was that there is a very strong market for online poker and this is a concern for many in the gaming industry.

Phase 1 Regulations – Commissioner McHugh stated that on Friday, October 12, the Phase 1 regulations will be published by the Secretary of State and the plan is to issue RFA-1 applications next week. He stated that the Commission had to revisit the completion date before issuing the instructions that would accompany the application. The draft posted on the website contains a deadline of November 30 but, based on the draft plan provided by the gaming consultants, it appears that the end of the year would be a more realistic date. Chairman Crosby stated that he anticipated a 90 day period for completion of the application, which would set the deadline at January 15, 2013. Commissioner McHugh stated that the applicant could apply for a waiver from the deadline that would have to be reviewed by the Commission. Commissioner Zuniga supported the later date of January 15, 2013, to allow the Commission to engage in a survey of potential equity investors. Chairman Crosby asked whether an applicant that is granted an extension from the January 15 deadline would automatically receive an extension for filing the \$400,000 application fee. Commissioner McHugh stated that the Commission could require that the fee be filed with the bulk of the application but whether to do so could be decided on a case-by-case basis. Chairman Crosby stated that the Commission should consider a solution that expedites the process as much as possible, gives the broadest flexibility to get the most competition and the best deal for the Commonwealth, and is fair to the people who are bidding and the affected communities.

The Commission then reviewed the suggested changes to the RFA-1 form made by members of the public and decided which of the changes to accept.

*Motion made by Commissioner McHugh that he be empowered to work with Anderson & Kreiger, who are doing the final preparation of the instructions, to embody the substance of the suggested changes adopted by the Commission in a revised specimen form and application form and to publish on October 15, as scheduled, the resulting forms, and that the Commission post with the forms the instructions containing a January 15, 2013, deadline for filing applications, and a provision that would allow waivers from that deadline under the terms and conditions set out in regulations that will be published on Friday, October 12. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.*

Commissioner McHugh stated that two days before the final regulations were filed with the Secretary of State an amended small business impact statement was filed over Chairman Crosby's signature in accordance with the requirements of the statewide regulation promulgation process and the Commission should vote to ratify this statement.

*Motion made by Commissioner McHugh to ratify the content of the small businesses impact statement filed over the signature of the Commission Chair on September 26. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

Chairman Crosby stated that the Commission should discuss a process for meeting with the applicants who want to complete and RFA-1. Commissioner McHugh stated that the Commission also has to discuss how it will handle the investigation piece of the process. Commissioner Zuniga stated that the extension of the contract with the gaming consultants that is about to be executed will cover both the scope of licensing and the Phase 2 regulations. Chairman Crosby asked if the scope of licensing meetings would be conducted by the Commission or by the consultants. Commissioner McHugh recommended the consultants conduct initial meetings, but also suggested that the Commission may have to become involved in those discussions depending on the issues that are raised.

#### **Administration:**

See transcript pages 43-47.

Personnel Searches - Chairman Crosby stated that the Commission hopes to be able to announce the ombudsman at the next meeting, and the other searches, including Executive Director, are moving forward.

Administration – Commissioner Zuniga stated that the final phase of execution of the current contract with the gaming consultants should be ready in the next few days. He stated that an RFP will be issued for stenographic services in the next few days. He stated that an updated project management chart should be available in the near future. Chairman Crosby stated that he would like to have PMA, the consultant hired to manage the chart, come to a future meeting to discuss it.

#### **Finance/Budget:**

See transcript pages 47-49.

Update - Commissioner Zuniga provided a summary of the first quarter budget results. He stated that a budget of \$7,411,000 was approved for this fiscal year. Expenditures of the first quarter were \$1,165,766, which indicates the Commission is under spending. He continued by stating that spending is likely to catch up before the end of the year as anticipated hiring increases. He also stated that he will provide a detailed financial analysis at the next Commission meeting. Finally, he stated that the RFP for financial services is closing on October 12.

**Racing Division:**

See transcript pages 49-76.

Operations Update – Commissioner Cameron stated that she conducted a national search for a Director of Racing and introduced Dr. Jennifer Durenberger as the final candidate for the position. Dr. Durenberger is a doctor of veterinary medicine as well as a J.D. and has national and international experience as a racing regulator. She has been a regulatory veterinarian as well as an accredited steward. Commissioner Cameron stated that Dr. Durenberger brings a unique set of skills and background to the position of Director of Racing. Dr. Durenberger introduced herself and an interview was conducted by the Commission in which she provided background information and answered questions posed by Commissioners.

*Motion made by Commissioner Cameron to appoint Dr. Durenberger as the Commission's Director of Racing. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.*

Chairman Crosby asked for an update on the audit being conducted by Auditor Bump. Commissioner Cameron stated that the auditors have completed their work and there were no reported findings but a final report has not been received.

Commissioner Cameron stated that on September 20 she conducted several adjudicatory proceedings. The first matter involved Lucy Herkova, a licensed jockey at Suffolk Downs. She was suspended for 15 calendar days and disqualified from a third place finish for a race that was held on September 1. Based on her findings of fact after the hearing, Commissioner Cameron recommends upholding the 15-day suspension and the appellant has the right to appeal this recommendation to the full Commission.

The second matter is a tentative decision in the matter of Augusto Martin, a licensed jockey at Suffolk Downs who was suspended for five calendar days. Based on her findings of fact, Commissioner Cameron recommends upholding the 5-day suspension, and the appellant has the right to appeal this recommendation to the full Commission.

The third matter is a tentative decision in the matter of William Beaton, a licensed stable employee suspended for 72 days by the Board of Stewards. Based on her findings of fact, Commissioner Cameron recommends upholding the 72-day suspension, and the appellant has the right to appeal this recommendation to the full Commission.

Chairman Crosby asked if the individuals in these situations are allowed to continue their jobs while the appeal process is taking place. Commissioner Cameron stated that in most instances they continue to work because a stay is issued pending completion of the appellate process. Chairman Crosby recommended looking at this process to see if it can be refined. Commissioner McHugh stated that procedure used by Commissioner Cameron follows the regulations used by all administrative agencies and those and that those regulations are embodied in the regulations the

Commission has promulgated. However, improvements are always possible and the regulations can be reviewed with the possibility of improvement in mind.

Chairman Crosby asked if Commissioner Cameron will continue to conduct these hearings now that a Director of Racing has been hired. Commissioner Cameron stated that she will continue to do so at least for the immediate future. At some point in the future, however, a staff attorney or other Commission employee could be appointed as hearing officer for both gaming and racing.

### **Public Education and Information:**

See transcript pages 77-160.

Community and/or Developer Outreach/Responses to Requests for Information – Chairman Crosby stated that he received a letter from the President of the Springfield City Council essentially asking whether cities and towns could decide on the developer with which they intended to proceed before the Commission's deadline for submitting the RFA-1 application. He stated that he sent a response indicating that cities and towns have broad authority to set the parameters of their negotiations, subject to the issues the Commission has already discussed with them.

Commissioner McHugh stated that all the questions submitted by Chelsea have been revised with the exception of one question dealing with the community development fund. Commissioner Zuniga is in the process of following up on that with the Comptroller and all the questions will be answered soon.

Acting Ombudsman Report - Commissioner Stebbins stated that an early November date has been set for a meeting with interested parties statewide relative to the supplier diversity working group. The meeting will focus, among other things, on whether the Commission should hire a staff person to deal with the diversity issue or whether it can work effectively through resources of another partner agency. He stated that it is premature to consider a staff person at this point until the statewide group has an opportunity to meet.

Chairman Crosby asked for an update on the process for providing monies to host and surrounding communities. Commissioner Zuniga stated that he has not had an opportunity to update this reimbursement procedure proposal but will provide information at the next Commission meeting.

Chairman Crosby stated that he received a letter from the Pioneer Valley Convention and Visitors Bureau asking for Commission approval of a process designed to ensure that bidders for gaming licenses interacted effectively with the local tourism industry. Commissioner Stebbins stated that the letter was an outgrowth of the concerns and considerations presented at the tourism forum the Commission held at Western New England College. The Bureau has proposed creating relationships with some of the potential casino operators in the western Massachusetts area. He stated that the Commission will have to discuss how to give teeth to any MOUs created as part of the licensing process. Commissioner Zuniga expressed concern about the proliferation of processes dealing with the same subject and recommended issuing a policy statement to assist the Bureau and others as they focus on creating relationships with potential developers. Commissioner McHugh shared

Commissioner Zuniga's concerns and stated that to put the Commission's weight behind a process requiring prospective applicants to reach an agreement with a specific entity begins to open up the potential for a vast array of different entities with which prospective applicants would have to negotiate and reach agreements, in the process giving veto power to entities that by statute do not have that power. He recommended thinking carefully about the best way to achieve this objective and whether an RFP process is the right way to do this. Commissioner Cameron stated that she also has real concerns with the Bureau's proposal. Commissioner Stebbins stated that he would work with Commissioner McHugh to look at the proposal, determine where it may conflict with the Commission's process and offer suggestions to alleviate their concerns.

Chairman Crosby stated that he would draft a letter indicating the Commission will not take a position pro or con on the Bureau's process, but will continue to work with them to think of ways they can coordinate with the gaming industry to make sure the intentions of the law are implemented.

Chairman Crosby stated that he provided the Commission with a 42-page certificate the Secretary of Energy and Environmental Affairs issued in response to the Environmental Notification Form submitted in connection with the Mashpee Wampanoag proposal to build a casino in the City of Taunton. Among other things, the certificate required submission of a draft environmental impact report before proceeding with the development. He suggested that the Commission review the certificate to understand the review process and its complexity before the discussion with the Director of MEPA at an upcoming Commission meeting. He stated that this is something the ombudsman can work on as well. Commissioner McHugh stated that need for environmental and other review should also be included in the regulation planning process because the letter demonstrates the complexity of the permitting process.

Report from Director of Communications and Outreach – Director Driscoll stated that an RFP was issued seeking assistance with logo creation, website creation, and all surrounding collateral such as brochures and HTML newsletters. Jackrabbit, a Boston design firm, was selected to perform that work. She introduced Cara Ogar and Lynn Spooner from Jackrabbit who was present to review logo concepts. She stated that the goal today is to identify which of four different approaches to a logo is most agreeable, in a general sense, to the Commission. She stated that it is important to keep in mind that a logo is part of a larger Commission branding exercise that will include the website, brochures, and collateral public outreach. Ms. Ogar and Ms. Spooner presented to the Commission four distinct logo concepts and explained the basis for these concepts. Discussion was held on the strengths and weakness of each concept with the general consensus favoring the energy of the fourth logo design presented, but also the seal represented in the second. Ms. Ogar and Ms. Spooner indicated they would consider the feedback and work on a concept that incorporates both designs.

Report on October 2<sup>nd</sup> Meeting at Holyoke Community College – Commissioner Stebbins stated that he and Commissioner McHugh had a meeting at Holyoke Community College and were provided an updated draft workforce development plan for the gaming industry. He stated that he provided the Commission with a copy of the Community College System Casino Career Training Institute draft MOU with a potential developer. He stated that the goal is to have the community college representatives present a finalized plan to the Commission in November.

Chairman Crosby stated that while in Las Vegas the Commissioners had an opportunity to visit a training center which was very impressive. The center was the product of collaboration between management and labor and seemed to work remarkably well. He stated that this reinforced how important it is to involve the labor unions in workforce training conversations, as well as the need for other kinds of support outside of the classroom experience.

Commissioner McHugh stated that the community colleges' believe that they should be the exclusive certifying authority and completion of their program should be a prerequisite to being licensed in Massachusetts. He stated that the Commission will have to determine whether this is a viable approach. Commissioner Cameron stated that many casinos teach on their own so she is not sure the colleges could be exclusive. Chairman Crosby asked that the Commissioners review Community College documents and provide written comments to Commissioner Stebbins for future discussion.

Commissioner Stebbins stated that the second portion of their meeting centered on the construction trades. A casino in western Massachusetts would be the biggest construction project in the history of that region and the labor unions want to ensure local workers are employed in the project. He stated that his initial reaction is this is something that could be incorporated into a host community agreement.

AIA Presentation: John Nunnari, Executive Director of the American Institute of Architects Massachusetts, addressed the Commission to discuss the Institute's proposal to conduct an educational forum regarding physical planning and design of casinos. Present with him were Vernon Woodworth, President of the Massachusetts AIA, Laura Wernick, President of the Boston Society of Architects, and Mike Davis, President-Elect of AIA. Ms. Wernick stated that the Institute believes that architects can assist the Commission with Section 5 of the Act which addresses evaluation of architectural design and concept excellence, integration into surroundings and tourism appeal, as well as Section 18 dealing with sustainable design principles, meeting or exceeding stretch code, committing to advanced energy-efficiency, conserving water and procurement of a generation of renewable energy.

Mr. Davis stated that the Institute is proposing to host a half day symposium for architects interested in the design of casinos in Massachusetts and from that forum distilling specific recommendations to present to the Commission. Chairman Crosby stated that he would like the Commission to participate in this forum. He stated that areas of discussion could center on proposed regulations, standards, and policy decisions that would be helpful to present to developers to let them know of issues about which the Commission is thinking. Mr. Davis disclosed that he is the Chair of the Boston Civic Design Commission for the BRA and was appointed by the Mayor. Chairman Crosby expressed concern that this may create a potential conflict, as the Commission would not want advice on design criteria from someone who may have a stake in the outcome of the application of those criteria. Mr. Davis stated that he could recuse himself from this process.

Chairman Crosby stated that the Commission would like to move forward with this proposed forum and asked Mr. Nunnari to coordinate with Janice Reilly on scheduling.

**Research Agenda:**

See transcript pages 160-162.

Status Report – Chairman Crosby stated that Monday, October 8, was the closing date for the RFR on the research plan and there were been five submittals, all of which are being reviewed. He stated that the Partners for a Healthier Community asked the Commission to partner with them in their application to the Pew Health Group and submitted a letter for endorsement. The Commission was in agreement that Chairman Crosby endorse the letter.

*Motion made to adjourn, motion seconded and carried unanimously.*

**List of Documents and Other Items Used at the Meeting**

1. Massachusetts Gaming Commission October 9, 2012 Notice of Meeting & Agenda
2. September 25, 2012 Meeting Minutes of the Massachusetts Gaming Commission
3. September 21, 2012 Letter Regarding Application Form Comments, Mohegan Resorts Mass, LLC
4. September 21, 2012 Comments on Massachusetts Gaming Commission's Proposed Personal and Business Entity Disclosure Form
5. September 21, 2012 Phase 1 Forms Comments from MGM Resorts International
6. Instructions for Applicants for a Gaming License – RFA Phase I Application
7. September 25, 2012 Letter Regarding Amended Small Business Impact Statement
8. October 4, 2012 Letter from Springfield City Council
9. October 1, 2012 Pioneer Valley Convention and Visitor's Bureau Regarding RFP
10. Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form
11. September 12, 2012 DRAFT 1 - A Statewide Initiative Addressing the Workforce Needs of the Gaming Industry in Massachusetts
12. Draft MOU for Western Massachusetts
13. Testimony of Jason Garand, Business Manager for Carpenters Local 108
14. October 2012 Letter Regarding Support for Partners for a Healthier Community's Health Impact

/s/ James F. McHugh  
James F. McHugh  
Secretary